

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHERAE MILLER

: CIVIL ACTION

Plaintiff

: Case No. _____

v.

: JURY TRIAL DEMANDED

LEANDRO MALARA and CORP. TRI-
STEEL,

: _____

Defendants

: _____

NOTICE OF REMOVAL OF DEFENDANT

Defendants, by and through their undersigned counsel, hereby file this Notice of Removal to remove this action from the Court of Common Pleas of Delaware County, where it is now pending, to the United States District Court for the Eastern District of Pennsylvania, and aver in support thereof as follows:

1. On April 22, 2022, Plaintiff instituted a state action against the Defendants by Writ of Summons in the Court of Common Pleas of Delaware County, Pennsylvania.
2. Plaintiff filed a Complaint on September 30, 2022. (Ex. "A," Complaint.)
3. Plaintiffs allege that, on May 12, 2020, Plaintiff sustained bodily injuries in a motor vehicle accident in Chester, Pennsylvania in Delaware County caused when Defendant Leandro Malara was operating a vehicle owned by Defendant Corp. Tri-Steel which he backed into the front of Plaintiff's vehicle. (*Id.* ¶ 6.)
4. In the Complaint, Plaintiff alleges that she sustained the following damages:
 9. As a direct and proximate result of the aforementioned collision, plaintiff Sherae Miller suffered bodily injuries, including but not limited to, injuries to her neck, back, shoulders, right wrist and right hand. The injuries have continued since the accident.

10. As a consequence of her injuries, plaintiff has been required to undergo medical treatment. Plaintiff has incurred in the past and will continue to incur in the future, medical expenses for the treatment of her injuries.

11. As a consequence of her injuries, plaintiff has experienced in the past and will continue to experience in the future, considerable pain, suffering, discomfort, anxiety and anguish, both mental and physical in nature.

(*Id.* ¶¶ 9-11.)

5. The Complaint includes an *ad damnum* clause seeking in excess of \$50,000 for, among other things, pain and suffering, past and future medical expenses and past and future lost wages. (*See id.* *ad damnum* clause.)

6. Defendants do not possess Plaintiff's medical records; however, Counsel for Plaintiff advised Counsel for Defendants on October 27, 2022 that Plaintiff has an objective finding in a MRI and received injection therapy with the possibility of future injection therapy or other treatment.

7. Defendants now timely file this Notice of Removal because the Court has original jurisdiction over this matter pursuant to 28 U.S.C. §1332(a) because there is complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8. The United States District Court for the Eastern District of Pennsylvania is the federal judicial district encompassing Delaware County, Pennsylvania, where the State Action was filed. For purposes of removal, venue lies in this Court pursuant to 28 U.S.C. § 1441(a).

9. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal contains a "copy of all process, pleadings, and orders served upon the defendants in this action." (*See Ex. "B,"* Copies of All Process, Pleadings and Orders Served Upon Defendant in the State Action.)

10. Prompt written notice of this Notice of Removal is being sent to Plaintiff through her counsel, and a copy of this Notice of Removal is being filed with the Prothonotary of the Court of Common Pleas of Delaware County as required by 28 U.S.C. § 1446(d).

I. REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION BECAUSE PLAINTIFF AND DEFENDANTS ARE CITIZENS OF DIFFERENT STATES AND THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000, EXCLUSIVE OF INTEREST AND COSTS

11. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

12. The district courts of the United States have original jurisdiction over matters between citizens of different States where the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. §1332(a).

A. PLAINTIFF AND DEFENDANTS ARE CITIZENS OF DIFFERENT STATES

13. A natural person is deemed to be a citizen of the state where he or she is domiciled. *Lincoln Benefit Life Co. v. AEI Life, LLC*, 800 F.3d 99, 104 (3d. Cir. 2015).

14. “A corporation is a citizen both of the state where it is incorporated and of the state where it has its principal place of business.” *Id.*

15. At all relevant times, Plaintiff was/is a citizen of the Commonwealth of Pennsylvania because she was/is an adult individual residing and domiciled at 1607 West 7th Street, Chester, Pennsylvania 19013. (Ex. “A,” ¶ 1.)

16. At all relevant times, Defendant Leandro Malara was/is a citizen of the State of New Jersey because he was/is an adult individual residing and domiciled at 210 South Market Street, Gibbstown, New Jersey 08027. (*Id.* ¶ 2.)

17. At all relevant times, Defendant Corp. Tri-Steel was/is a citizen of the State of New Jersey because it was/is a New Jersey corporation with its principal place of business located at 512 Swedesboro Avenue, Mickleton, New Jersey 08056. (*Id.* ¶ 3.)

18. Accordingly, the requirements of diversity jurisdiction have been satisfied.

B. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000, EXCLUSIVE OF INTEREST AND COSTS

19. “A court must engage in an objective independent appraisal of the claim’s value to determine whether the amount in controversy is satisfied.” *Judge v. Phila. Premium Outlets*, 2010 U.S. Dist. LEXIS 56762, *8, 2010 WL 2376122 (E.D. Pa. 2010) (*citing Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993)).

20. In cases with demands of indeterminate value, “the amount in controversy is not measured by the low end of an open-ended claim, but rather by reasonable reading of the value of the rights being litigated.” *Id.*

21. Plaintiff seeks an amount in excess of \$50,000 based on her Complaint.

22. She has an objective finding in a MRI and received injection therapy with the possibility of future injection therapy or other treatment.

23. Plaintiff claims pain and suffering for permanent injuries as well as past and future medical bills and past and future lost wages which collectively satisfy the amount in controversy.

WHEREFORE, Defendants respectfully request that this State Action be removed from the Delaware County Court of Common Pleas to the United States District Court for the Eastern District of Pennsylvania.

LAW OFFICES OF JERRY S. EISENBERG



Robert E. McDivitt III, Esquire
309 Fellowship Road, Suite 330
Mount Laurel, NJ 08054
856-778-3220 (phone)
856-778-3222 (fax)
Attorney for Defendants

Date: 10/28/22

EXHIBIT “A”

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

121 Honey Tree Lane

Chadds Ford, PA 19317

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	
Individually,	:	
	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	
	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA,	:	
Individually, and	:	
CORP. TRI-STEEL,	:	
a New Jersey company,	:	
	:	CIVIL ACTION: CV-2022-002974
Defendants.	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. (Continued on next page)

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Delaware County Bar Association
Lawyer Referral and Information Service
3353 West Front Street
Media, PA 19063
Telephone: (610) 566-6627

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

121 Honey Tree Lane

Chadds Ford, PA 19317

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	
Individually,	:	
	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	
	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA,	:	
Individually, and	:	CIVIL ACTION: CV-2022-002974
CORP. TRI-STEEL,	:	
a New Jersey company,	:	
	:	
Defendants.	:	

COMPLAINT

1. The total amount of damages, exclusive of interest and costs, claimed by Plaintiff in this matter is greater than \$50,000.

2. Plaintiff Sherae Miller is a resident of the State of Pennsylvania, residing at 1607 West 7th Street, Chester, Pennsylvania, 19013.

3. Defendant Leandro Malara is a resident of the State of New Jersey, residing at 210 South Market Street, Gibbstown, New Jersey, 08027-1462.

4. Defendant Corp. Tri-Steel is a New Jersey company and can be served at its last known business address of 512 Swedesboro Avenue, Mickleton, New Jersey, 08056.

COUNT I

5. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 4 above as if set forth fully herein.

6. On May 12, 2020 at approximately 7:40 a.m., plaintiff Sherae Miller was traveling east bound on West 9th Street in Chester, Pennsylvania. A vehicle operated by defendant Leandro Malara and owned by defendant Corp. Tri-Steel was also traveling east bound on West 9th Street, directly in front of plaintiff's vehicle. Suddenly and without warning, defendant Leandro Malara backed his vehicle into the front of plaintiff's vehicle.

7. The aforesaid collision and plaintiff's resulting damages were proximately caused by the negligence of defendants Leandro Malara in that he:

- (a) Operated the vehicle he was driving in careless, reckless and/or wanton disregard of the safety of persons or property;
- (b) Failed to give full time and attention to the operation of the vehicle he was driving;
- (c) Failed to maintain a proper lookout while operating the vehicle he was driving;
- (d) Failed to exercise and maintain proper control over the vehicle he was driving;
- (e) Failed to safely back his vehicle;
- (f) Violated the common law duty of lookout; and
- (g) Was otherwise negligent.

8. Each of the aforementioned acts of negligence of defendant Leandro Malara constitutes a proximate cause of the aforesaid collision and plaintiff's resulting injuries and damages.

9. As a direct and proximate result of the aforementioned collision, plaintiff Sherae Miller suffered bodily injuries, including but not limited to, injuries to her neck, back, shoulders, right wrist and right hand. The injuries have continued since the accident.

10. As a consequence of her injuries, plaintiff has been required to undergo medical treatment. Plaintiff has incurred in the past and will continue to incur in the future, medical expenses for the treatment of her injuries.

11. As a consequence of her injuries, plaintiff has experienced in the past and will continue to experience in the future, considerable pain, suffering, discomfort, anxiety and anguish, both mental and physical in nature.

COUNT II

12. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 11 above as if set forth fully herein.

13. Defendant Corp. Tri-Steel owned the vehicle operated by defendant Leandro Malara at all times relevant hereto.

14. Prior to the time of the aforesaid collision, defendant Corp. Tri-Steel entrusted by expressly or implicitly permitting defendant Leandro Malara to use the vehicle which is a dangerous instrumentality as a matter of law, said conduct, upon information and belief, constitutes negligence in that defendant Corp. Tri-Steel knew or should have known that defendant Leandro Malara could not be reasonably expected to operate said vehicle with due care to the plaintiff and others on the roadway.

15. Defendant Corp. Tri-Steel's negligence proximately caused the accident and plaintiff Sherae Miller's resulting injuries and damages.

16. Defendant Corp. Tri-Steel is independently liable to plaintiff under the doctrine of negligent entrustment.

Plaintiff hereby demands a trial by jury of 12.

WHEREFORE, Plaintiff Sherae Miller demands judgment against Leandro Malara and Corp. Tri-Steel, jointly and severally, in an amount greater than \$50,000 for:

- (a) past, present, and future pain and suffering;
- (b) compensation for permanent injuries;
- (c) past, present and future lost wages;
- (d) past, present and future medical expenses including but not limited to doctor visits, prescriptions, and physical therapy;
- (e) court costs;
- (f) pre and post-judgment interest; and
- (g) any other relief which the Court deems just and equitable.

PHILLIPS, MCLAUGHLIN & HALL, P.A.

/s/ David A. Bilson

David A. Bilson, Esquire (ID #88360)
121 Honey Tree Lane
Chadds Ford, PA 19317
Telephone: (302) 655-4200
Attorney for Plaintiff

DATE: 9/29/2022

VERIFICATION

SHERAE MILLER, hereby states that she is a Plaintiff in the within action and hereby verifies that the statements made in the attached Complaint are true and correct to the best of her knowledge, information and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa C.S. Section 4904 relating to unsworn falsification to authorities.

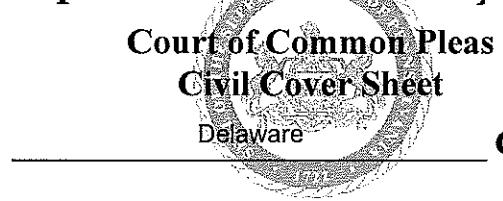
Dated: May ___, 2022



SHERAE MILLER

EXHIBIT “B”

Supreme Court of Pennsylvania



**Court of Common Pleas
Civil Cover Sheet**

Delaware

County

<p>For Prothonotary Use Only:</p> <p>Docket No: <i>1234567890</i></p>	<p>TIME STAMP</p>
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The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Section A	Commencement of Action:	
	<input type="checkbox"/> Complaint	<input checked="" type="checkbox"/> Writ of Summons
<input type="checkbox"/> Transfer from Another Jurisdiction		<input type="checkbox"/> Petition
<input type="checkbox"/> Declaration of Taking		
Lead Plaintiff's Name: Sherae Miller		Lead Defendant's Name: Leandro Malara
Are money damages requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Dollar Amount Requested: (check one)
<input type="checkbox"/> within arbitration limits		<input checked="" type="checkbox"/> outside arbitration limits
Is this a <i>Class Action Suit</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Name of Plaintiff/Appellant's Attorney: <u>David A. Bilson, Esquire (#88360)</u>		
<input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)		

<p>Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your PRIMARY CASE. If you are making more than one type of claim, check the one that you consider most important.</p>		
<p>TORT (do not include Mass Tort)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input checked="" type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (does not include mass tort) <input type="checkbox"/> Slander/Libel/ Defamation <input type="checkbox"/> Other: <hr/> <hr/> <hr/>	<p>CONTRACT (do not include Judgments)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other <hr/> <hr/> <hr/> <ul style="list-style-type: none"> <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other <hr/> <hr/> <hr/> <ul style="list-style-type: none"> <input type="checkbox"/> Other: <hr/> <hr/> <hr/>	<p>CIVIL APPEALS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other <hr/> <hr/> <hr/> <ul style="list-style-type: none"> <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other: <hr/> <hr/> <hr/>
<p>MASS TORT</p> <ul style="list-style-type: none"> <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other: <hr/> <hr/> <hr/>	<p>REAL PROPERTY</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other: <hr/> <hr/> <hr/>	<p>MISCELLANEOUS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input type="checkbox"/> Other: <hr/> <hr/> <hr/>
<p>PROFESSIONAL LIABILITY</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional: <hr/> <hr/> <hr/>		

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA, and	:	CIVIL ACTION: _____
CORP. TRI-STEEL,	:	
Defendants.	:	

PRAECIPE FOR WRIT OF SUMMONS

TO THE OFFICE OF JUDICIAL SUPPORT:

Issue summons in civil action in the above case and forward to the Attorney for service.

/s/ David A. Bilson
DAVID A. BILSON, ESQUIRE
PHILLIPS, MCLAUGHLIN & HALL, P.A.
121 Honey Tree Lane
Chadds Ford, PA 19317
(302) 655-4200
Attorney for Plaintiff
Attorney Supreme Court ID #88360

Dated: April 22, 2022

WRIT OF SUMMONS IN CIVIL ACTION

To: Leandro Malara, 210 South Market Street, Gibbstown, New Jersey, 08027-1462
Corp. Tri-Steel, 512 Swedesboro Avenue, Mickleton, New Jersey, 08056

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFF HAS COMMENCED AN ACTION AGAINST YOU.

MARY J. WALK, ESQUIRE
Director, Office of Judicial Support

Dated: _____, 2022

By: _____

Attested to be a true and correct
copy of the original

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER, : IN THE COURT OF COMMON PLEAS
Plaintiff, : DELAWARE COUNTY,
v. : PENNSYLVANIA
LEANDRO MALARA, and : CIVIL ACTION: CV-2022-002974
CORP. TRI-STEEL, :
Defendants. :
:

PRAECIPE FOR WRIT OF SUMMONS

TO THE OFFICE OF JUDICIAL SUPPORT:

Issue summons in civil action in the above case and forward to the Attorney for service.

/s/ David A. Bilson

DAVID A. BILSON, ESQUIRE
PHILLIPS, MC LAUGHLIN & HALL, P.A.
121 Honey Tree Lane
Chadds Ford, PA 19317
(302) 655-4200
Attorney for Plaintiff

Dated: April 22, 2022

Attorney Supreme Court ID #88360

WRIT OF SUMMONS IN CIVIL ACTION

To: Leandro Malara, 210 South Market Street, Gibbstown, New Jersey, 08027-1462
Corp. Tri-Steel, 512 Swedesboro Avenue, Mickleton, New Jersey, 08056

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFF HAS COMMENCED AN
ACTION AGAINST YOU.

Dated: 4-22-2022, 2022

Mary J. Walk

MARY J. WALK, ESQUIRE

Director, Office of Judicial Support

By: Sharon E. Darrow

Attested to be a true and correct
copy of the original

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

121 Honey Tree Lane

Chadds Ford, PA 19317

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA, and	:	CIVIL ACTION: CV-2022-002974
CORP. TRI-STEEL,	:	
Defendants.	:	
STATE OF DELAWARE	:	
	:	SS
COUNTY OF NEW CASTLE	:	

RETURN OF SERVICE

1. I, David A. Bilson, Esquire, am a member in good standing of the Pennsylvania Bar and represent the plaintiff, Sherae Miller, in the above-captioned action.

2. On April 22, 2022, I filed a Praeclipe for Writ of Summons in the instant action on behalf of the plaintiff against defendants Leandro Malara and Corp. Tri-Steel.

3. On May 10, 2022, I mailed, by registered mail return receipt, a copy of the Writ of Summons and a letter constituting notice, pursuant to Pennsylvania Rule 404, to defendant Leandro Malara at his last known address of 210 South Market Street, Gibbstown, New Jersey, 08027. (A copy of the registered letter is attached hereto as Exhibit "A" and made a part hereof.)

4. Upon mailing said registered letter, I received a receipt, which is the same receipt attached hereto as Exhibit "B" and made a part hereof.

5. On or about May 12, 2022, the letter was delivered and signed for by defendant Leandro Malara. (A copy of the return receipt is attached hereto as Exhibit "C").

PHILLIPS, MCLAUGHLIN & HALL, P.A.



DAVID A. BILSON, ESQUIRE (#88360)
121 Honey Tree Lane
Chadds Ford, PA 19317
(302) 655-4200
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED before me this 16 day of June, 2022.

Mary Frances Fitzpatrick
NOTARY PUBLIC
MARY FRANCES FITZPATRICK
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires August 21, 2024

PHILLIPS, McLAUGHLIN & HALL, P.A.

JOHN C. PHILLIPS, JR.
LISA C. McLAUGHLIN*
JAMES P. HALL
DAVID A. BILSON***
MEGAN C. HANEY
TODD L. GOODMAN
PAUL S. SEWARD***

ALSO MEMBER OF
*PENNSYLVANIA BAR
***NEW JERSEY BAR
+MARYLAND BAR

ATTORNEYS AT LAW
PENNSYLVANIA AVE. AND BROOM ST.
1200 N. BROOM STREET
WILMINGTON, DELAWARE 19806

(302) 655-4200
(302) 655-4210 (F)
pmhdelaw.com

May 10, 2022

**REGISTERED MAIL
RETURN RECEIPT REQUESTED**

Mr. Leandro Malara
210 South Market Street
Gibbstown, NJ 08027-1462

RE: Sherae Miller v. Leandro Malara, et al.
C.A. No.: CV-2022-002974
Our File No.: MILLS-1

Dear Mr. Malara:

This letter constitutes notice under Pennsylvania Rule 404 that a suit has been filed against you in the Court of Common Pleas of the State of Pennsylvania in and for Delaware County. Please find enclosed the original process and Writ of Summons perfecting service upon you under the provisions of Rule 404.

Please deliver these papers immediately to your insurance company or attorney.

Very truly yours,

David A. Bilson

DAVID A. BILSON

DAB:mff
Enclosures
cc: Ms. Sherae Miller (w/o enc)

EXHIBIT

"A"

Registered No. RF 339053461 US		Date Stamp
To Be Completed By Post Office	Reg. Fee 13.75	
	Handling Charge	Return Receipt 3.05
	Postage 1.36	Restricted Delivery
	Received by <i>[Signature]</i>	
	Customer Must Declare Full Value \$ 6	
Domestic Insurance up to \$25,000 is included based upon the declared value. International Indemnity is limited. (See Reverse)		
OFFICIAL USE		
To Be Completed By Customer (Please Print) All Entries Must Be In Ballpoint or Typed	FROM	Phillips McLoughlin + Hall 1200 North Brandy Street Wilmington DE 19806
	TO	MR. Leandro Malara 210 South Market Street Gibbstown, NJ 08027

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
May 2007 (7530-02-000-9051) (See Information on Reverse)
For domestic delivery information, visit our website at www.usps.com •



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <input type="checkbox"/> Complete items 1, 2, and 3. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature</p> <p>X</p> <p>B. Received by (Printed Name) Lee Leandro Malara</p> <p>C. Date of Delivery 5/2/22</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>MR. Leandro Malara 210 South Market Street Gibbstown, NJ 08027</p> <p></p> <p>9590 9402 4335 8190 8661 91</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>RF 339 053 461 US</p>		<p>Domestic Return Receipt</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053



USPS Tracking®

[FAQs >](#)

[Track Another Package +](#)

Tracking Number: RF339053461US

[Remove X](#)

Your item was delivered to an individual at the address at 1:41 pm on May 12, 2022 in GIBBSTOWN, NJ 08027.

Delivered, Left with Individual

May 12, 2022 at 1:41 pm
GIBBSTOWN, NJ 08027

[Get Updates ▾](#)

[Text & Email Updates](#) ▾

[Tracking History](#) ^

May 12, 2022, 1:41 pm

Delivered, Left with Individual
GIBBSTOWN, NJ 08027

Your item was delivered to an individual at the address at 1:41 pm on May 12, 2022 in GIBBSTOWN, NJ 08027.

May 11, 2022, 2:06 pm

Notice Left (No Authorized Recipient Available)
GIBBSTOWN, NJ 08027

Feedback

May 11, 2022, 7:44 am

Out for Delivery

GIBBSTOWN, NJ 08027

May 11, 2022, 7:33 am

Arrived at Post Office

GIBBSTOWN, NJ 08027

May 10, 2022, 11:50 pm

Arrived at USPS Facility

BELLMAWR, NJ 08099

May 10, 2022, 3:15 pm

USPS in possession of item

WILMINGTON, DE 19801

Product Information

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FAQs

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

**121 Honey Tree Lane
Chadds Ford, PA 19317**

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	DELAWARE COUNTY, PENNSYLVANIA
v.	:	CIVIL ACTION: CV-2022-002974
LEANDRO MALARA, and CORP. TRI-STEEL,	:	
Defendants.	:	
STATE OF DELAWARE	:	
	:	SS
COUNTY OF NEW CASTLE	:	

RETURN OF SERVICE

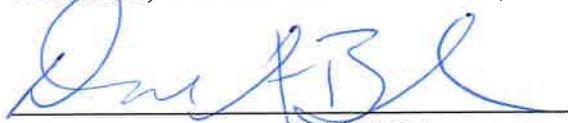
1. I, David A. Bilson, Esquire, am a member in good standing of the Pennsylvania Bar and represent the plaintiff, Sherae Miller, in the above-captioned action.
2. On April 22, 2022, I filed a Praeclipe for Writ of Summons in the instant action on behalf of the plaintiff against defendants Leandro Malara and Corp. Tri-Steel.
3. On May 10, 2022, I mailed, by registered mail return receipt, a copy of the Writ of Summons and a letter constituting notice, pursuant to Pennsylvania Rule 404, to defendant Corp. Tri-Steel at its last known business address of 512 Swedesboro Avenue, Mickleton, New Jersey, 08056. (A copy of the registered letter is attached hereto as Exhibit "A" and made a part hereof.)

4. Upon mailing said registered letter, I received a receipt, which is the same receipt attached hereto as Exhibit "B" and made a part hereof.

5. The green return receipt was never returned to my office. An online search revealed that the letter was delivered to defendant Corp. Tri-Steel. on May 11, 2022. (A copy of the United States Postal Service tracking information is attached hereto as Exhibit "C".)

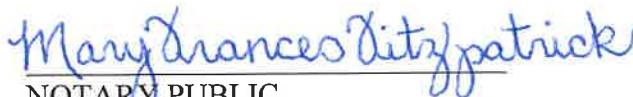
6. A second letter is being mailed out to defendant Corp. Tri-Steel today.

PHILLIPS, MCLAUGHLIN & HALL, P.A.



DAVID A. BILSON, ESQUIRE (#88360)
121 Honey Tree Lane
Chadds Ford, PA 19317
(302) 655-4200
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED before me this 16 day of June, 2022.



NOTARY PUBLIC

MARY FRANCES FITZPATRICK
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires August 21, 2024

PHILLIPS, McLAUGHLIN & HALL, P.A.

JOHN C. PHILLIPS, JR.
LISA C. McLAUGHLIN*
JAMES P. HALL
DAVID A. BILSON***
MEGAN C. HANEY
TODD L. GOODMAN
PAUL S. SEWARD***

ATTORNEYS AT LAW
PENNSYLVANIA AVE. AND BROOM ST.
1200 N. BROOM STREET
WILMINGTON, DELAWARE 19806
—
(302) 655-4200
(302) 655-4210 (F)
pmhdelaw.com

ALSO MEMBER OF
*PENNSYLVANIA BAR
**NEW JERSEY BAR
*MARYLAND BAR

May 10, 2022

REGISTERED MAIL
RETURN RECEIPT REQUESTED
Corp. Tri-Steel
512 Swedesboro Avenue
Mickleton, NJ 08056

RE: Sherae Miller v. Leandro Malara, et al.
C.A. No.: CV-2022-002974
Our File No.: MILLS-1

Dear Sir:

This letter constitutes notice under Pennsylvania Rule 404 that a suit has been filed against you in the Court of Common Pleas of the State of Pennsylvania in and for Delaware County. Please find enclosed the original process and Writ of Summons perfecting service upon you under the provisions of Rule 404.

Please deliver these papers immediately to your insurance company or attorney.

Very truly yours,

David A. Bilson

DAVID A. BILSON

DAB:mff
Enclosures
cc: Ms. Sherae Miller (w/o enc)



Registered No. <i>RF 3301053475 US</i>		Date Stamp
To Be Completed By Post Office	Reg. Fee	13.75
	Handling Charge	Return Receipt <i>3.05</i>
	Postage	Restricted Delivery
	Received by <i>MDA</i>	
Customer Must Declare Full Value \$ <i>1.36</i>		Domestic Insurance up to \$25,000 is included based upon the declared value. International Indemnity is limited. (See Reverse).
OFFICIAL USE		
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	<i>Phillips McLoughlin + Hyll 1700 North Broad Street Wilmington DE 19806</i>
	TO	<i>Corp. tri-Steel 5125 Wedesboro Avenue Mckleton, NJ 08056</i>

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
May 2007 (7530-02-000-9051) (See Information on Reverse)
For domestic delivery information, visit our website at www.usps.com ®





[FAQs >](#)

[Track Another Package +](#)

Tracking Number: RF339053475US

[Remove X](#)

Your item was delivered to an individual at the address at 10:30 am on May 11, 2022 in MICKLETON, NJ 08056.

Delivered, Left with Individual

May 11, 2022 at 10:30 am
MICKLETON, NJ 08056

[Feedback](#)

[Get Updates ▾](#)

[Text & Email Updates](#) ▾

[Tracking History](#) ^

May 11, 2022, 10:30 am

Delivered, Left with Individual
MICKLETON, NJ 08056

Your item was delivered to an individual at the address at 10:30 am on May 11, 2022 in MICKLETON, NJ 08056.

May 11, 2022, 7:50 am

Out for Delivery
MICKLETON, NJ 08056



May 11, 2022, 7:39 am

Arrived at Post Office

MICKLETION, NJ 08056

May 10, 2022, 11:51 pm

Arrived at USPS Facility

BELLMAWR, NJ 08099

May 10, 2022, 3:13 pm

USPS in possession of item

WILMINGTON, DE 19801

Product Information



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FAQs

LAW OFFICE OF DENNIS O. WILSON

Robert E. McDivitt III, Esquire
IDENTIFICATION NO.: 201180
309 Fellowship Road, Suite 330
Mount Laurel, NJ 08054
Robert.McDivitt@selective.com
856-778-3212; 855-515-8186 fax

Attorney for Defendants, Leandro Malara and Tri-Steel Corp.

SHERAE MILLER,	:	COURT OF COMMON PLEAS
Plaintiff,	:	DELAWARE COUNTY
v.	:	
LEANDRO MALARA, and CORP. TRI-	:	NO: CV-2022-002974
STEEL,	:	
Defendants.	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my Appearance on behalf of Defendants, Leandro Malara and Tri-Steel Corp., in the above-captioned case.

Respectfully submitted,

LAW OFFICE OF DENNIS O. WILSON



ROBERT E. MCDIVITT III, ESQUIRE
Attorney for Defendants

Dated: September 16, 2022

LAW OFFICE OF DENNIS O. WILSON

Robert E. McDivitt III, Esquire
IDENTIFICATION NO.: 201180
309 Fellowship Road, Suite 330
Mount Laurel, NJ 08054
Robert.McDivitt@selective.com
856-778-3212; 855-515-8186 fax

Attorney for Defendants, Leandro Malara and Tri-Steel Corp.

SHERAE MILLER,	:	COURT OF COMMON PLEAS
Plaintiff,	:	DELAWARE COUNTY
v.	:	
LEANDRO MALARA, and CORP. TRI-	:	NO: CV-2022-002974
STEEL,	:	
Defendants.	:	

DEMAND FOR JURY TRIAL

TO THE PROTHONOTARY:

Defendant, Tri-Steel Corp. demands a jury trial consisting of twelve (12) members, in the above-captioned matter.

Respectfully submitted,

LAW OFFICE OF DENNIS O. WILSON



ROBERT E. MCDIVITT III, ESQUIRE
Attorney for Defendants

Dated: September 16, 2022

LAW OFFICE OF DENNIS O. WILSON

Robert E. McDivitt III, Esquire
IDENTIFICATION NO.: 201180
309 Fellowship Road, Suite 330
Mount Laurel, NJ 08054
Robert.McDivitt@selective.com
856-778-3212; 855-515-8186 fax
Attorney for Defendant, Tri-Steel Corp.

SHERAE MILLER, Plaintiff,	:	COURT OF COMMON PLEAS
	:	DELAWARE COUNTY
	:	NO: CV-2022-002974
LEANDRO MALARA, and CORP. TRI-STEEL, Defendants.	:	
	:	

PRAECIPE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter a Rule upon Plaintiff to file a Complaint within twenty (20) days hereof or suffer the entry of a Judgment of Non Pros.

Respectfully submitted,

LAW OFFICE OF DENNIS O. WILSON



ROBERT E. MCDIVITT III, ESQUIRE
Attorney for Defendant, Tri-Steel Corp.

Dated: September 16, 2022

LAW OFFICE OF DENNIS O. WILSON

Robert E. McDivitt III, Esquire

IDENTIFICATION NO.: 201180

309 Fellowship Road, Suite 330

Mount Laurel, NJ 08054

Robert.McDivitt@selective.com

856-778-3212; 855-515-8186 fax

Attorney for Defendant, Tri-Steel Corp.

SHERAE MILLER, Plaintiff, v. LEANDRO MALARA, and CORP. TRI- STEEL, Defendants.	:	COURT OF COMMON PLEAS DELAWARE COUNTY NO: CV-2022-002974
---	---	---

RULE TO FILE COMPLAINT

AND NOW, this _____ day of _____, a Rule is hereby granted upon

Plaintiff to file a Complaint herein within twenty (20) days after service hereof or suffer the entry of a Judgment of Non Pros.

PROTHONOTARY

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

121 Honey Tree Lane

Chadds Ford, PA 19317

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	
Individually,	:	
	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	
	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA,	:	
Individually, and	:	
CORP. TRI-STEEL,	:	
a New Jersey company,	:	
	:	CIVIL ACTION: CV-2022-002974
Defendants.	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. (Continued on next page)

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Delaware County Bar Association
Lawyer Referral and Information Service
3353 West Front Street
Media, PA 19063
Telephone: (610) 566-6627

PHILLIPS, MCLAUGHLIN & HALL, P.A.

By: David A. Bilson, Esquire

dab@pmhdelaw.com

I.D. No. 88360

121 Honey Tree Lane

Chadds Ford, PA 19317

(302) 655-4200

Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL LAW-ACTION**

SHERAE MILLER,	:	
Individually,	:	
	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	
	:	DELAWARE COUNTY,
v.	:	PENNSYLVANIA
LEANDRO MALARA,	:	
Individually, and	:	CIVIL ACTION: CV-2022-002974
CORP. TRI-STEEL,	:	
a New Jersey company,	:	
	:	
Defendants.	:	

COMPLAINT

1. The total amount of damages, exclusive of interest and costs, claimed by Plaintiff in this matter is greater than \$50,000.

2. Plaintiff Sherae Miller is a resident of the State of Pennsylvania, residing at 1607 West 7th Street, Chester, Pennsylvania, 19013.

3. Defendant Leandro Malara is a resident of the State of New Jersey, residing at 210 South Market Street, Gibbstown, New Jersey, 08027-1462.

4. Defendant Corp. Tri-Steel is a New Jersey company and can be served at its last known business address of 512 Swedesboro Avenue, Mickleton, New Jersey, 08056.

COUNT I

5. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 4 above as if set forth fully herein.

6. On May 12, 2020 at approximately 7:40 a.m., plaintiff Sherae Miller was traveling east bound on West 9th Street in Chester, Pennsylvania. A vehicle operated by defendant Leandro Malara and owned by defendant Corp. Tri-Steel was also traveling east bound on West 9th Street, directly in front of plaintiff's vehicle. Suddenly and without warning, defendant Leandro Malara backed his vehicle into the front of plaintiff's vehicle.

7. The aforesaid collision and plaintiff's resulting damages were proximately caused by the negligence of defendants Leandro Malara in that he:

- (a) Operated the vehicle he was driving in careless, reckless and/or wanton disregard of the safety of persons or property;
- (b) Failed to give full time and attention to the operation of the vehicle he was driving;
- (c) Failed to maintain a proper lookout while operating the vehicle he was driving;
- (d) Failed to exercise and maintain proper control over the vehicle he was driving;
- (e) Failed to safely back his vehicle;
- (f) Violated the common law duty of lookout; and
- (g) Was otherwise negligent.

8. Each of the aforementioned acts of negligence of defendant Leandro Malara constitutes a proximate cause of the aforesaid collision and plaintiff's resulting injuries and damages.

9. As a direct and proximate result of the aforementioned collision, plaintiff Sherae Miller suffered bodily injuries, including but not limited to, injuries to her neck, back, shoulders, right wrist and right hand. The injuries have continued since the accident.

10. As a consequence of her injuries, plaintiff has been required to undergo medical treatment. Plaintiff has incurred in the past and will continue to incur in the future, medical expenses for the treatment of her injuries.

11. As a consequence of her injuries, plaintiff has experienced in the past and will continue to experience in the future, considerable pain, suffering, discomfort, anxiety and anguish, both mental and physical in nature.

COUNT II

12. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 11 above as if set forth fully herein.

13. Defendant Corp. Tri-Steel owned the vehicle operated by defendant Leandro Malara at all times relevant hereto.

14. Prior to the time of the aforesaid collision, defendant Corp. Tri-Steel entrusted by expressly or implicitly permitting defendant Leandro Malara to use the vehicle which is a dangerous instrumentality as a matter of law, said conduct, upon information and belief, constitutes negligence in that defendant Corp. Tri-Steel knew or should have known that defendant Leandro Malara could not be reasonably expected to operate said vehicle with due care to the plaintiff and others on the roadway.

15. Defendant Corp. Tri-Steel's negligence proximately caused the accident and plaintiff Sherae Miller's resulting injuries and damages.

16. Defendant Corp. Tri-Steel is independently liable to plaintiff under the doctrine of negligent entrustment.

Plaintiff hereby demands a trial by jury of 12.

WHEREFORE, Plaintiff Sherae Miller demands judgment against Leandro Malara and Corp. Tri-Steel, jointly and severally, in an amount greater than \$50,000 for:

- (a) past, present, and future pain and suffering;
- (b) compensation for permanent injuries;
- (c) past, present and future lost wages;
- (d) past, present and future medical expenses including but not limited to doctor visits, prescriptions, and physical therapy;
- (e) court costs;
- (f) pre and post-judgment interest; and
- (g) any other relief which the Court deems just and equitable.

PHILLIPS, MCLAUGHLIN & HALL, P.A.

/s/ David A. Bilson

David A. Bilson, Esquire (ID #88360)
121 Honey Tree Lane
Chadds Ford, PA 19317
Telephone: (302) 655-4200
Attorney for Plaintiff

DATE: 9/29/2022

VERIFICATION

SHERAE MILLER, hereby states that she is a Plaintiff in the within action and hereby verifies that the statements made in the attached Complaint are true and correct to the best of her knowledge, information and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: May ___, 2022



SHERAE MILLER